

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Devon Raj Sharma,

Plaintiff,

vs.

Unknown Dasha, et al.,

Defendants.

No. CV-22-00648-PHX-SPL (CDB)

ORDER

Plaintiff commenced this action by filing a Complaint in Maricopa County Superior Court on February 14, 2022 (Doc. 1). On April 19, 2022, Defendants removed the action to federal Court (Doc. 1). Upon screening Plaintiff's four-count Second Amended Complaint, the Court found Plaintiff adequately alleged state law claims against Defendant Dasha Lekic in Count One and Defendant Penzone in Count Two, and that Plaintiff stated a Fourteenth Amendment medical claim against Defendant Dasha Lekic in Count Three (Doc. 17 at 7). The Court dismissed Count Four for failure to state a claim, finding that "[b]ecause Maricopa County CHS is not a municipal corporation, a local governing body or a private corporation, it is not a 'person' amenable to suit under § 1983." (Doc. 17 at 6).

On November 14, 2022, upon receiving leave (Doc. 38), Plaintiff filed a Third Amended Complaint (Doc. 39). The Honorable Eileen S. Willett, United States Magistrate Judge, further screened the Third Amended Complaint, finding Counts One, Two, and Three were unchanged and could proceed for the same reasons stated in the Court's August 10, 2022 screening Order (Doc. 17), that Plaintiff corrected the discrepancies identified as

1 to Count Four and the claim could proceed against Defendant Maricopa County, and
 2 indicated that a separate Report and Recommendation (“R&R”) would issue as to Counts
 3 Five and Six (Doc. 38).

4 On November 14, 2022, Judge Willett issued an R&R (Doc. 42), recommending
 5 Counts Five and Six of the Third Amended Complaint be dismissed for failure to state a
 6 claim. Judge Willett advised the parties that they had fourteen (14) days to file objections
 7 to the R&R and that failure to file timely objections could be considered a waiver of the
 8 right to obtain review of the R&R (Doc. 42 at 5). *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ.
 9 P. 6, 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

10 A district judge “may accept, reject, or modify, in whole or in part, the findings or
 11 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). When a party files a
 12 timely objection to an R&R, the district judge reviews *de novo* those portions of the R&R
 13 that have been “properly objected to.” Fed. R. Civ. P. 72(b). A proper objection requires
 14 specific written objections to the findings and recommendations in the R&R. *See United*
 15 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); 28 U.S.C. § 636(b) (1). It
 16 follows that the Court need not conduct any review of portions to which no specific
 17 objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also Thomas v. Arn*, 474
 18 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review is judicial
 19 economy).

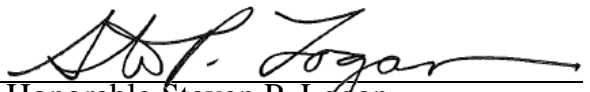
20 The parties did not file objections, which relieves the Court of its obligation to
 21 review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. at 149
 22 (“[Section 636(b)(1)] does not... require any review at all... of any issue that is not the
 23 subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine *de*
 24 *novo* any part of the magistrate judge’s disposition that has been properly objected to.”).
 25 The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court
 26 will adopt the R&R and dismiss Counts Five and Six of the Third Amended Complaint
 27 without prejudice. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept,
 28 reject, or modify, in whole or in part, the findings or recommendations made by the

1 magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the
2 recommended disposition; receive further evidence; or return the matter to the magistrate
3 judge with instructions.”). Accordingly,

4 **IT IS ORDERED** that the Magistrate Judge’s Report and Recommendation (Doc.
5 42) is **accepted** and **adopted** by the Court.

6 **IT IS FURTHER ORDERED** that Counts Five and Six of the Third Amended
7 Complaint are **dismissed without prejudice**.

8 Dated this 6th day of January, 2023.

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10 
11 Honorable Steven P. Logan
12 United States District Judge
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